

UNITED STATES DISTRICT COURT

Middle District of North Carolina

JACOBO LOYOLA-DOMINGUEZ,)	
)	
Petitioner,)	1:05CV328
)	1:03CR373-1
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

O-R-D-E-R

On October 21, 2005, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties in this action and a copy was given to the court.

Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.¹

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

¹ In his Objections to the Recommendation, Petitioner apparently seeks leave of court to bring another claim, that is to say, that his "trial attorney failed to file a notice of appeal." The motion is DENIED. Petitioner appeared at trial and at sentencing *pro se*.

IT IS HEREBY ORDERED that Petitioner's motion to vacate, set aside or correct sentence [Pleading no. 1] be **DENIED** and that this action be dismissed with prejudice. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.



Benjamin L. Green
UNITED STATES DISTRICT JUDGE

DATE: February 16, 2006